



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

AE-17J

JUL 02 2008

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**


Mike Black, Environmental Engineer
The Scotts Company
14111 Scottslawn Road
Marysville, Ohio 43041

Re: The Scotts Company
Administrative Consent Order

Dear Mr. Black:

Enclosed is an executed original of a Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at (312) 353-6684.

Sincerely,


Bonnie Bush
Section Chief (MI/WI)

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	EPA-5-08-113(a)-OH-04
)	
The Scotts Company)	Proceeding Under Sections 113(a)(1),
Marysville, Ohio)	42 U.S.C. § 7413(a)(1)
)	
)	
)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U. S. Environmental Protection Agency, Region 5, is issuing this Order to The Scotts Company (Scotts) under Section 113(a)(1) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(a)(1).

Statutory and Regulatory Background

2. Section 110 of the Act, 42 U.S.C. § 7410, requires that each state submit to the Administrator of EPA (the Administrator) a plan for attaining and maintaining the National Ambient Air Quality Standards.

3. On March 10, 2003, EPA approved "Permits to Install New Source of Pollution—Criteria for Decision by the Director" as part of the federally enforceable State Implementation Plan (SIP) for Ohio. 68 Fed. Reg. 2909

4. On March 10, 2003, EPA approved "Permits to Install New Source of Pollution—Attainment Provision" as part of the federally enforceable SIP for Ohio. 68 Fed. Reg. 2909

5. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

6. EPA granted full approval to the Ohio Title V operating permit program on August 15, 1995. The program became effective on October 1, 1995.

7. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator

may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

8. Scotts owns and operates an emission source at 14111 Scottslawn Road, Marysville, Ohio (facility).

9. On May 21, 2003, Ohio Environmental Protection Agency issued a Title V permit to Scotts with a facility identification number of 01-80-01-0008.

10. The facility includes a Polymer Encapsulation system, identified in the Title V permit as P014.

11. The facility also includes a Pesticide Blending and Packaging system, identified in the Title V permit as P019, as well as a Pesticide Blender identified in the Title V permit as P067.

12. Condition (A)(1)(1) of Part III of the Title V permit limits emissions of particulate matter (PM) from P014 to 0.02 pounds per hour (lb/hr).

13. Condition (A)(1)(1) of Part III of the Title V permit limits emissions of PM from P019 to 0.05 lb/hr and P067 to 0.1 lbs. of PM per hour.

14. On March 12, 2007, EPA issued an Information Request under Section 114 of the Act, 42 U.S.C. § 7414, asking for all stack tests conducted on P014 and P019 at the facility for the preceding three years.

15. On April 26, 2007, Scotts provided the results of all stack tests as requested.

16. Based on the results of a stack test performed on January 26, 2005, Scotts violated the P014 PM limit of 0.02 pounds per hour contained in the Title V permit, with a result of 0.04 lb/hr.

17. The results of a stack test performed on November 15, 2005, indicated that combined emissions from P019 and P067 were 0.06 lb/hr.

18. Scotts' operation in violation of its Title V permit constitutes a violation of Section 502 of the CAA and of 40 C.F.R. § 70.7(b).

19. On September 21, 2007, EPA issued a Notice of Violation (NOV) to Scotts alleging that it violated its PM limits for P014 and P019.

20. On December 20, 2007, representatives of Scotts and EPA met to discuss the allegations in the NOV.

21. At that meeting, Scotts presented documentary evidence that in January of 2004, it had applied for a Permit to Install (PTI) modification to revise the PM limit for P014 to 0.2 lb/hr.

22. Scotts presented further evidence that Ohio EPA issued a PTI modification on March 11, 2004, which revised the PTI PM limit of 0.2 lb/hr for the PTI. Scotts submitted a request to modify the Title V permit limit for P014 to be consistent with the PTI. However, the new limit had yet to be incorporated into the Title V permit, which specified the original limit of 0.02 lb/hr.

23. Scotts submitted a Title V renewal application in December of 2007 that contained the new limit of 0.2 lb. per hour PM for P014.

24. Also at the December of 2007 meeting, Scotts presented evidence regarding the alleged emissions violation at P019. Those documents indicate that both P019 and P067 are vented to the 4172 Dust Collector. P067 has a permitted emission limit of 0.1 lb/hr for PM.

25. Scotts further established that on the date of the stack test, both P019 and P067 were in operation and that, in fact, the two systems cannot operate independently.

26. Because the stack test results represented emissions from both P067 and P019, it was Scotts' position that the apparent exceedence of the emission limit for P019 is attributable to emissions from P067.

27. Given the separate PM limits for the two emission sources, the fact that they necessarily operate at the same time, and the fact that they vent from the same stack, it is impossible to determine whether each emission unit is complying with its individual limit.

Compliance Program

28. In December of 2007 Scotts submitted a timely Title V renewal application containing the correct emission for P014 of 0.2 lb/hr of PM. Scotts must take all reasonable and necessary steps to ensure that the Title V renewal permit issued by Ohio EPA contains a PM emissions limit for P014 of 0.2 lbs. per hour.

29. In addition, on May 30, 2008, Scott submitted a PTI application to Ohio EPA in order to modify the existing PTIs for P019 and P067 to combine them into one emissions source (P067) with one PM limit of 0.15 lb. per hour.

30. Within 30 days after Ohio EPA's issuance of revised PTI for P067, Scotts will submit a new Title V renewal application adding the revised PTI for P067. Scotts must take all reasonable and necessary steps to ensure that the Title V renewal permit issued by Ohio EPA contains a combined P067 and P019 emissions limit which is constituent with any PTI issued by Ohio EPA.

31. The Scotts Company must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

General Provisions

32. This Order does not affect Scotts' responsibility to comply with other federal, state, and local laws.

33. This Order does not restrict EPA's authority to enforce the Ohio SIP, Title V, or

any other section of the Act.

34. Nothing in this Order limits EPA's authority to seek appropriate relief, including penalties, under Section 113 of the Act, 42 U.S.C. § 7413, for Scotts' violation of the Ohio SIP and Title V.

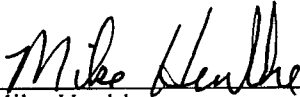
35. Failure to comply with this Order may subject Scotts to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

36. EPA may use any information submitted under this Order in an administrative, civil, judicial or criminal action.

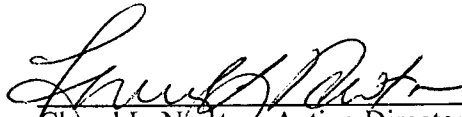
37. Scotts agrees to the terms of this Order.

38. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Scotts has complied with all terms of the Order throughout its duration.

6-25-08
Date


Mike Henkle
Plant Manager
The Scotts Company

7/2/08
Date


Cheryl L. Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

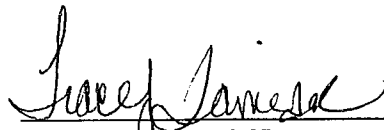
I, Tracy Jamison, hereby certify that the attached Request For Information Pursuant to the Clean Air Act was sent by Certified Mail, Return Receipt to:

Mike Black, Environmental Engineer
The Scotts Company
14111 Scottslawn Road
Marysville, Ohio 43041

I also certify that a copy of the Request For Information pursuant to the Clean Air Act was sent by first class mail to:

Isaac Robinson, Supervisor
Ohio Department of Air Pollution Control
Central District Office
3232 Alum Creek Drive
Columbus, Ohio 43207-3417

on the 7 day of July 2007.



Tracy Jamison, Office Automation Clerk
U.S. EPA Region 5, ARD
AECAS (MI/WI)

Certified Mail Receipt Number: 7001 0320 0006 0185 9471